THE HON'BLE SRI JUSTICE P.S.NARAYANA

WRIT PETITION NO.18820 OF 2006

DATE: 15th November 2006

Between:

1. I. Rama Krishnam Raju, s/o Subba Raju,
   aged 40 years, r/o Pippera village,
   Ganapavaram Mandal, West Godavari
   District and another.

… Petitioners.

And

1. Gram Panchayat, rep. by its Panchayat Secretary,
   Pippera Gram Panchayat, Ganapavaram Mandal,
   West Godavari District.

… Respondent.

* * *

ORDER:

Heard Sri Bokka Satyanarayana, learned counsel representing the writ petitioners and Sri M.Prabhakar Rao, learned counsel representing respondent.

2. This Court ordered notice before admission on 11.9.2006 and status quo for limited period was granted and being extended from time to time. Counter affidavit is filed on behalf of the respondent and at the request of both the counsel the writ petition is being disposed of finally.

3. The writ petition is filed for a writ of Mandamus to declare

Notice of the respondent in R.S.No.9/2006 dated 05.9.2006 directing the petitioners to vacate the scheduled land by way of cancellation of the license of business, situated at Block No.9, N.A. Road, Pippera village, Ganapavaram Mandal, West Godavari District, as illegal, arbitrary and violative of Articles 14 and 16 of the Constitution of India and consequently direct the respondent not to evict the petitioners from their residential houses with hotel byway of cancellation of license 2006-2007.

4. It is stated in the affidavit filed in support of the writ petition sworn in by the first writ petitioner that the petitioners are in possession and enjoyment of the property situated at 7th Block, N.A. Road, Pippera village along with the father of the first petitioner for the last 40 years. Recently his father passed away in the year 2006 and the petitioners are living in a thatched house in the schedule property and running hotel business for their livelihood. It is also stated that during life time of his father, they constructed a thatched house for running a coffee hotel and they have been paying land tax to Gram Panchayat regularly and obtained electric connection and was granted a license for doing business also. It is also stated that during the lifetime of his father, several representations were made to the respondent to consider their case for grant of 'D' form patta in respect of the said land and several factual details in relation thereto also had been specified. It is also stated that the schedule land belongs to the Roads and Buildings Department and does not belong to Gram Panchayat. It is further stated that the respondent is threatening to evict the petitioners from the said land. When the respondent

threatened to evict the petitioners' father, he filed writ petition No.738 of 2005 for grant of patta by way of considering the representations submitted to the respondent by his father on 14.8.2003, 25.3.2004 and 08.01.2005 to the schedule land and the same was disposed of on 27.01.2005 specifying that since the representations of the petitioner dated 14.8.2003, 25.3.2004 and 08.01.2005 are said to be pending consideration before the second respondent-Mandal Revenue Officer without going into the merits of the matter, I deem it appropriate to dispose of the writ petition directing the second respondent-Mandal Revenue Officer, to consider the representations of the petitioners dated 14.8.2003, 25.3.2004 and 08.01.2005 and pass appropriate orders thereon in accordance with law expeditiously. But, however, it is stated that the said order was not implemented.

5. It is also further stated that when the representations are pending before the Revenue authorities for grant of 'D' Form patta and despite the directions issued by this court referred to supra the representations are not being considered and while things stood thus, the respondent issued a notice on 05.9.2006 in the name of his deceased father received by the petitioners on 09-9-2006 at 11-30 a.m. to cancel the license 2006-2007 and threatening the petitioners with eviction. It is also stated that inasmuch as threat is being continued the petitioners approached this Court.

6. In the counter-affidavit filed it is stated that it is a fact that the petitioners are running small business on either side of the

road margins since for a long time by obtaining license from the Gram Panchayat and it is a fact that Gram Panchayat vide its resolution dated 29.8.2005 resolved to remove encroachments on the road margins and the impugned notice was given to vacate the encroached lands. It is also stated that on the basis of oral representations made by the writ petitioners, an enquiry was conducted and on physical inspection of the encroached sites it is found that the encroachments made by the writ petitioners are not causing any traffic inconvenience at present, and therefore, the Gram Panchayat vide its resolution No.51 dated 03.10.2006 resolved to drop the impugned notice permitting the petitioners to carry on their business reserving right of the Gram Panchayat to remove the encroachments in future if circumstances warrant by following due procedure of law. It is also stated that apart from that the representations of the writ petitioners are under consideration by the Mandal Revenue Officer for grant of 'D' Form patta as directed by this Court.

7. In the light of the specific stand taken by the respondent, it is clear that at present there is no threat of eviction and no doubt the respondent reserved the right of liberty to take appropriate action in case of need. The stand taken in the counter-affidavit by the respondent is hereby recorded.

8. In view of the facts and circumstances and in the light of the stand taken in para 3 of the counter-affidavit that Gram Panchayat vide resolution No.51 dated 03.10.2006 resolved to drop the impugned notice permitting the petitioners to carry on their business reserving right of the Gram Panchayat to remove the

encroachments in future, if circumstances warrant, by following due procedure of law, the writ petition is disposed of accordingly not to resort to further threat of eviction unless and until due procedure of law is followed in this regard. No order as to costs.

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15-11-2006

Note:

Issue CC by three days.

//B.O.//

BSB